104

S. HRG. 104–581

TORRES-MARTINEZ DESERT CAHUILLA INDIANS CLAIMS SETTLEMENT ACT AND ADDITIONAL LANDS WITHIN THE STATE OF UTAH FOR THE GOSHUTE INDIAN RESERVATION

Y 4. IN 2/11: S. HRG. 104-581

Torres-Martinez Desert Cahuilla Ind...

HEARING

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

ONE HUNDRED FOURTH CONGRESS

SECOND SESSION

ON

S. 1893 and H.R. 2464

TO PROVIDE FOR THE SETTLEMENT OF ISSUES AND CLAIMS RELATED TO THE TRUST LANDS OF THE TORRES-MARTINEZ DESERT CAHUILLA INDIANS AND TO AMEND PUBLIC LAW 103–93 TO PROVIDE ADDITIONAL LANDS WITHIN THE STATE OF UTAH FOR THE GOSHUTE INDIAN RESERVATION

JULY 18, 1996
WASHINGTON, DC

DEC 02 1996

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TORRES-MARTINEZ DESERT CAHUILLA INDIANS CLAIMS SETTLEMENT ACT AND TO PROVIDE ADDITIONAL LANDS WITHIN THE STATE OF UTAH FOR THE GOSHUTE INDIAN RESERVATION

THURSDAY, JULY 18, 1996

U.S. SENATE,
COMMITTEE ON INDIAN AFFAIRS,
Washington, DC.

The committee met, pursuant to other business, at 9:45 a.m. in room 485, Russell Senate Building, Hon. John McCain (chairman of the committee) presiding.

Present: Senators McCain, Simon and Gorton.

STATEMENT OF HON. JOHN McCAIN, U.S. SENATOR FROM ARIZONA, CHAIRMAN, COMMITTEE ON INDIAN AFFAIRS

The CHAIRMAN. We will convene our hearing on H.R. 2464 to add certain lands to the Goshute Indian Reservation in Utah and S. 1893, the Torres-Martinez Desert Cahuilla Indians Claims Settlement Act.

I'd like to welcome our first panel of witnesses and apologize because I'll have to leave shortly. Let me assure you I've read your statements and look forward to working with you to achieve swift passage of these important bills.

The first panel consists of Maitland Sharpe, Assistant Director, Bureau of Land Management Resources, Planning and Assessment, Department of the Interior; John Paul Kennedy, General Counsel, Goshute Indian Tribe; and John A. Harja, Vice Chairman, Board of Trustees, School and Institutional Trust Lands Administration, State of Utah.

I'm pleased to welcome the witnesses who are to testify in H.R. 2464, a bill which would amend Public Law 103–93 to add certain State and Federal lands to the Goshute Indian Reservation in Utah. Public Law 103–93 authorizes the Secretary of the Interior to acquire about 200,000 acres of Utah School Trust Land located within the boundaries of national parks, forests and Indian reservations in Utah. In exchange, the School Trust will receive other Federal land and mineral rights of equal value.

H.R. 2464 provides for about 7,000 acres of additional State land to be exchanged and added in trust to the reservation. The bill also provides for about 1,200 acres of Federal land and mineral interest to be added to the reservation. The addition of these lands to the

Goshute Reservation will provide a more clearly defined and manageable reservation boundary. This will greatly improve the tribe's ability to deal with poaching, trespassing and other problems along the reservation boundary.

[Text of S. 1893 and H.R. 2464 follows:]

II

104TH CONGRESS
2D SESSION

S. 1893

To provide for the settlement of issues and claims related to the trust lands of the Torres-Martinez Desert Cahuilla Indians, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 19, 1996

Mrs. FEINSTEIN introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

---

A BILL

To provide for the settlement of issues and claims related to the trust lands of the Torres-Martinez Desert Cahuilla Indians, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Torres-Martinez Desert Cahuilla Indians Claims Settlement Act".

SEC. 2. CONGRESSIONAL FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares that:

(1) In 1876, the Torres-Martinez Indian Reservation was created, reserving a single, 640-acre

section of land in the Coachella Valley, California, at the northern end of the Salton Sink. The Reservation was expanded in 1891 by Executive Order, pursuant to the Mission Indian Relief Act of 1891, adding about 12,000 acres to the original 640-acre reservation.

(2) Between 1905 and 1907, flood waters of the Colorado River filled the Salton Sink, creating the Salton Sea, inundating approximately 2,000 acres of the 1891 reservation lands.

(3) In 1909 an additional 12,000 acres of land, 9,000 of which were then submerged under the Salton Sea, were added to the reservation under a Secretarial Order issued pursuant to a 1907 amendment of the Mission Indian Relief Act. Due to receding water levels in the Salton Sea through the process of evaporation, at the time of the 1909 enlargement of the reservation, there were some expectations that the Salton Sea would recede within a period of 25 years.

(4) Through the present day, the majority of the lands added to the reservation in 1909 remain inundated due in part to the flowage of natural runoff and drainage water from the irrigation systems

of the Imperial, Coachella, and Mexicali Valleys into the Salton Sea.

(5) In addition to those lands that are inundated, there are also tribal and individual Indian lands located on the perimeter of the Salton Sea that are not currently irrigable due to lack of proper drainage.

(6) In 1982, the United States brought an action in trespass, United States of America, in its own right and on behalf of Torres-Martinez Band of Mission Indians and the Allottees therein v. The Imperial Irrigation District and Coachella Valley Water District, Case No. 82–1790 K (M) (referred to in this section as the "United States Suit") on behalf of the Torres-Martinez Indian Tribe and affected Indian allottees against the 2 water districts seeking damages related to the inundation of tribal-owned and allottee-owned lands and injunctive relief to prevent future discharge of water on such lands.

(7) On August 20, 1992, the Federal District Court for the Southern District of California entered a judgment in the United States Suit requiring the Coachella Valley Water District to pay $212,908.41 in past and future damages and the Imperial Irrigation District to pay $2,795,694.33 in past and fu-

ture damages in lieu of the United States request for a permanent injunction against continued flooding of the submerged lands.

(8) The United States, the Coachella Valley Water District, and the Imperial Irrigation District have filed notices of appeal with the United States Court of Appeals for the Ninth Circuit from the district court's judgment in the United States Suit (Case numbers 93–55389, 93–55398, and 93–55402), and the Torres-Martinez Indian Tribe has filed a notice of appeal from the district court's denial of its motion to intervene as a matter of right (Case number 92–55129).

(9) The Court of Appeals for the Ninth Circuit has stayed further action on the appeals pending the outcome of settlement negotiations.

(10) In 1991, the Torres-Martinez Indian Tribe brought its own lawsuit, Torres-Martinez Desert Cahuilla Indians, et al., v. Imperial Irrigation District, et al., Case No. 91–1670 J (LSP) (referred to in this section as the "Indian Suit") in the United States District Court, Southern District of California, against the two water districts, and amended the complaint to include as a plaintiff, Mary

Resvaloso, in her own right, and as class representative of all other affected Indian allotment owners.

(11) The Indian Suit has been stayed by the District Court to facilitate settlement negotiations.

(b) PURPOSE.—The purpose of this Act is to facilitate and implement the settlement agreement negotiated and executed by the parties to the United States Suit and Indian Suit for the purpose of resolving their conflicting claims to their mutual satisfaction and in the public interest.

SEC. 3. DEFINITIONS.

For the purposes of this Act:

(1) ALLOTTEES.—The term "allottees" means those individual members of the Tribe, their successors, heirs, and assigns, who have individual ownership of allotted Indian trust lands within the Torres-Martinez Indian Reservation.

(2) PERMANENT FLOWAGE EASEMENT.—The term "permanent flowage easement" means the perpetual right by the water districts to use the described lands in the Salton Sink within and below the minus 220-foot contour as a drainage reservoir to receive and store water from their respective water and drainage systems, including flood water, return flows from irrigation, tail water, leach water,

operational spills and any other water which overflows and floods such lands, originating from lands within such water districts.

(3) SALTON SEA.—The term "Salton Sea" means the inland body of water located in Riverside and Imperial counties in California, which serves as a drainage reservoir for water from precipitation, natural runoff, irrigation return flows, wastewater, floods, and other inflow from within its watershed area.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(6) SETTLEMENT AGREEMENT.—The term "Settlement Agreement" means the Agreement of Compromise and Settlement Concerning Claims to Lands of the United States Within and on the Perimeter of the Salton Sea Drainage Reservoir Held in Trust for the Torres-Martinez Indians executed on _____.

(7) TRIBE.—The term "Tribe" means the Torres-Martinez Desert Cahuilla Indians, a federally recognized Indian tribe with a reservation located in Riverside and Imperial Counties, California.

SEC. 4. RATIFICATION OF SETTLEMENT AGREEMENT.

The United States hereby approves, ratifies, and confirms the Settlement Agreement.

SEC. 5. SETTLEMENT FUNDS.

(a) ESTABLISHMENT OF TRIBAL AND ALLOTTEES SETTLEMENT TRUST FUNDS ACCOUNTS.—

(1) IN GENERAL.—There are established in the Treasury of the United States 3 settlement trust fund accounts to be known as—

(A) the Torres-Martinez Settlement Trust Funds Account;

(B) the Torres-Martinez Allottees' Settlement Account I; and

(C) the Torres-Martinez Allottees' Settlement Account II.

(2) AVAILABILITY.—Amounts held in the Torres-Martinez Settlement Trust Funds Account, the Torres-Martinez Allottees' Settlement Account I, and the Torres-Martinez Allottees' Settlement Account II shall be available to the Secretary for distribution to the Tribe and affected allottees in accordance with subsection (c).

(b) CONTRIBUTIONS TO THE SETTLEMENT TRUST FUNDS.—

(1) IN GENERAL.—Amounts paid to the Secretary for deposit into the trust fund accounts estab-

lished by subsection (a) shall be allocated among and deposited in the trust accounts in the amounts determined by the tribal-allottee allocation provisions of the Settlement Agreement.

(2) CASH PAYMENTS BY COACHELLA VALLEY WATER DISTRICT.—Within the time, in the manner, and upon the conditions specified in the Settlement Agreement, the Coachella Valley Water District shall pay the sum of $337,908.41 to the United States for the benefit of the Tribe and any affected allottees.

(3) CASH PAYMENTS BY IMPERIAL IRRIGATION DISTRICT.—Within the time, in the manner, and upon the conditions specified in the Settlement Agreement, the Imperial Irrigation District shall pay the sum of $3,670,694.33 to the United States for the benefit of the Tribe and any affected allottees.

(4) CASH PAYMENTS BY THE UNITED STATES.—Within the time and upon the conditions specified in the Settlement Agreement, the United States shall pay into the three separate tribal and allottee trust fund accounts the total sum of $10,200,000, of which sum—

(A) $4,200,000 shall be provided from moneys appropriated by Congress under section 1304 of title 31, United States Code, the condi-

tions of which are deemed to have been met, including those of section 2414 of title 28, United States Code; and

(B) $6,000,000 shall be provided from moneys appropriated by Congress for this specific purpose to the Secretary.

(5) ADDITIONAL PAYMENTS.—In the event that any of the sums described in paragraphs (2) or (3) are not timely paid by the Coachella Valley Water District or the Imperial Irrigation District, as the case may be, the delinquent payor shall pay an additional sum equal to 10 percent interest annually on the amount outstanding daily, compounded yearly on December 31 of each respective year, until all outstanding amounts due have been paid in full.

(6) SEVERALLY LIABLE FOR PAYMENTS.—The Coachella Valley Water District, the Imperial Irrigation District, and the United States shall each be severally liable, but not jointly liable, for its respective obligation to make the payments specified by this subsection.

(c) ADMINISTRATION OF SETTLEMENT TRUST FUNDS.—The Secretary shall administer and distribute funds held in the Torres-Martinez Settlement Trust Funds Account, the Torres-Martinez Allottees' Settlement

Account I, and the Torres-Martinez Allottees' Settlement Account II in accordance with the terms and conditions of the Settlement Agreement.

SEC. 6. TRUST LAND ACQUISITION AND STATUS.

(a) ACQUISITION AND PLACEMENT OF LANDS INTO TRUST.—

(1) IN GENERAL.—The Secretary shall convey into trust status lands purchased or otherwise acquired by the Tribe within the areas described in paragraphs (2) and (3) in an acreage amount not to exceed 11,800 acres in accordance with the terms, conditions, criteria, and procedures set forth in the Settlement Agreement and this Act. Subject to such terms, conditions, criteria, and procedures, all lands purchased or otherwise acquired by the Tribe and conveyed into trust status for the benefit of the Tribe pursuant to the Settlement Agreement and this Act shall be considered as if such lands were so acquired in trust status in 1909 except as to water rights as provided in subsection (c).

(2) PRIMARY ACQUISITION AREA.—

(A) IN GENERAL.—The primary area within which lands may be acquired pursuant to paragraph (1) are those certain lands located in the Primary Acquisition Area, as defined in the

Settlement Agreement. The amount of acreage that may be acquired from such area is 11,800 acres less the number of acres acquired and conveyed into trust by reason of paragraph (3).

(B) CONDITION OF ACQUISITION.—Lands may not be acquired under this paragraph if, by majority vote, the governing body of the city within whose incorporated boundaries (as such boundaries exist on the date of the execution of the Settlement Agreement) such lands are situated—

(i) objects to the request of the Tribe to convey such lands into trust; and

(ii) notifies the Secretary of any such objection in writing within 60 days after receiving a copy of the request of the Tribe in accordance with the Settlement Agreement.

(3) SECONDARY ACQUISITION AREA.—

(A) IN GENERAL.—Not more than 640 acres of land may be acquired pursuant to paragraph (1) from those certain lands located in the Secondary Acquisition Area, as defined in the Settlement Agreement.

(B) EFFECT OF OBJECTION BY CERTAIN GOVERNING BODIES.—Lands referred to in subparagraph (A) may not be acquired pursuant to paragraph (1) if, by majority vote—

(i) the governing body of the city whose incorporated boundaries the subject lands are situated within; or

(ii) the governing body of Riverside County, California, in the event that such lands are located within an unincorporated area,

formally objects to the request of the Tribe to convey the subject lands into trust and notifies the Secretary of such objection in writing within 60 days after receiving a copy of the request of the Tribe in accordance with the Settlement Agreement.

(b) RESTRICTIONS ON GAMING.—The Tribe shall have the right to conduct gaming on only 1 site within the lands acquired pursuant to subsection (a)(1) (as provided more particularly in the Settlement Agreement).

(c) WATER RIGHTS.—All lands acquired by the Tribe under subsection (a) shall—

(1) be subject to all valid water rights existing at the time of tribal acquisition, including all rights

under any permit or license issued under the laws of the State of California to—

(A) commence an appropriation of water;

(B) appropriate water; or

(C) increase the amount of water appropriated;

(2) be subject to the paramount rights of any person who at any time recharges or stores water in a ground water basin to recapture or recover the recharged or stored water or to authorize others to recapture or recover the recharged or stored water; and

(3) continue to enjoy all valid water rights appurtenant to the land existing immediately prior to the time of tribal acquisition.

SEC. 7. PERMANENT FLOWAGE EASEMENTS.

(a) CONVEYANCE OF EASEMENT TO COACHELLA VALLEY WATER DISTRICT.—

(1) TRIBAL INTEREST.—The United States, in its capacity as trustee for the Tribe, as well as for any affected Indian allotment owners, and their successors and assigns, and the Tribe in its own right and that of its successors and assigns, shall convey to the Coachella Valley Water District a permanent flowage easement as to all Indian trust lands (ap-

proximately 11,800 acres) located within and below the minus 220-foot contour of the Salton Sink, in accordance with the terms and conditions of the Settlement Agreement.

(2) UNITED STATES INTEREST.—The United States, in its own right shall, notwithstanding any prior or present reservation or withdrawal of land of any kind, convey to Coachella Valley Water District a permanent flowage easement as to all Federal lands (approximately 110,000 acres) located within and below the minus 220-foot contour of the Salton Sink, in accordance with the terms and conditions of the Settlement Agreement.

(b) CONVEYANCE OF EASEMENT TO IMPERIAL IRRIGATION DISTRICT.—

(1) TRIBAL INTEREST.—The United States, in its capacity as trustee for the Tribe, as well as for any affected Indian allotment owners, and their successors and assigns, and the Tribe in its own right and that of its successors and assigns, shall grant and convey to the Imperial Irrigation District a permanent flowage easement as to all Indian trust lands (approximately 11,800 acres) located within and below the minus 220-foot contour of the Salton

Sink, in accordance with the terms and conditions of the Settlement Agreement.

(2) UNITED STATES.—The United States, in its own right shall, notwithstanding any prior or present reservation or withdrawal of land of any kind, grant and convey to the Imperial Irrigation District a permanent flowage easement as to all Federal lands (approximately 110,000 acres) located within and below the minus 220-foot contour of the Salton Sink, in accordance with the terms and conditions of the Settlement Agreement.

SEC. 8. SATISFACTION OF CLAIMS, WAIVERS, AND RELEASES.

(a) SATISFACTION OF CLAIMS.—The benefits available to the Tribe and the allottees under the terms and conditions of the Settlement Agreement and the provisions of this Act shall constitute full and complete satisfaction of the claims by the Tribe and the allottees arising from or related to the inundation and lack of drainage of tribal and allottee lands described in section 2 of this Act and further defined in the Settlement Agreement.

(b) APPROVAL OF WAIVERS AND RELEASES.—The United States hereby approves and confirms the releases and waivers required by the Settlement Agreement and this Act.

SEC. 9. MISCELLANEOUS PROVISIONS.

(a) ELIGIBILITY FOR BENEFITS.—Nothing in this Act or the Settlement Agreement shall affect the eligibility of the Tribe or its members for any Federal program or diminish the trust responsibility of the United States to the Tribe and its members.

(b) ELIGIBILITY FOR OTHER SERVICES NOT AFFECTED.—No payment pursuant to this Act shall result in the reduction or denial of any Federal services or programs to the Tribe or to members of the Tribe, to which they are entitled or eligible because of their status as a federally recognized Indian tribe or member of the Tribe.

(c) PRESERVATION OF EXISTING RIGHTS.—Except for the rights specifically waived by this Act or the Settlement Agreement, nothing in this Act shall affect or diminish any right to which the Tribe is entitled under existing law.

(d) TAX TREATMENT.—None of the moneys paid to, or any of the lands acquired and placed into trust for, the Tribe or allottees under this Act shall be deemed to be taxable under Federal or State law, nor shall such payments or transfers be taxable events.

(e) AMENDMENT OF SETTLEMENT AGREEMENT.—The Settlement Agreement may be amended from time to time in accordance with its terms and conditions.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

SEC. 11. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided by subsection (b), this Act shall take effect on the date of enactment of this Act.

(b) EXCEPTION.—Sections 4, 5, 6, 7, and 8 shall take effect on the date on which the Secretary of the Interior determines the following conditions have been met:

(1) The Tribe agrees to the Settlement Agreement and the provisions of this Act and executes the releases and waivers required by the Settlement Agreement and this Act.

(2) The Coachella Valley Water District agrees to the Settlement Agreement and to the provisions of this Act.

(3) The Imperial Irrigation District agrees to the Settlement Agreement and to the provisions of this Act.

○

104TH CONGRESS
1ST SESSION

H. R. 2464

To amend Public Law 103–93 to provide additional lands within the State of Utah for the Goshute Indian Reservation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 11, 1995

Mr. HANSEN introduced the following bill; which was referred to the Committee on Resources

---

A BILL

To amend Public Law 103–93 to provide additional lands within the State of Utah for the Goshute Indian Reservation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITION OF CERTAIN UTAH STATE LANDS TO GOSHUTE INDIAN RESERVATION.

The Utah Schools and Lands Improvement Act of 1993 (107 Stat. 995) is amended—

(1) by redesignating section 11 as section 12; and

(2) by inserting after section 10 the following new section:

"SEC. 11. ADDITIONAL GOSHUTE INDIAN RESERVATION LANDS.

"(a) FURTHER ADDITIONS TO GOSHUTE RESERVATION.—In addition to the lands described in section 3, for the purpose of securing in trust for the Goshute Indian Tribe certain additional public lands and lands belonging to the State of Utah, which comprise approximately 8,000 acres of surface and subsurface estate, as generally depicted on the map entitled 'Additional Utah-Goshute Exchange', dated July 1, 1994, such public lands and State lands are hereby declared to be part of the Goshute Indian Reservation in the State of Utah effective upon the completion of conveyance of the State lands from the State of Utah and acceptance of title by the United States.

"(b) AUTHORIZATION.—The Secretary of the Interior is authorized to acquire through exchange those lands and interests in land described in subsection (a) which are owned by the State of Utah, subject to valid existing rights.

"(c) APPLICATION OF PRIOR PROVISIONS.—(1) Except as provided in paragraph (2), the remaining provisions of this Act which are applicable to the lands to be transferred to the Goshute Indian Tribe pursuant to section 3 shall also apply to the lands subject to this section.

"(2) The Goshute Indian Tribe will be responsible for payment of the costs of appraisal of the lands to be ac-

quired pursuant to this section, which costs shall be paid prior to the transfer of such lands.".

○

The CHAIRMAN. I commend the members of the Utah delegation for working with the tribe, the State and the Interior Department to develop this legislation. It's clearly in the beneficial interest of all parties and certainly appears to warrant expeditious consideration by this committee and the full Senate.

Mr. Sharpe, Mr. Kennedy, and Mr. Harja, please proceed in whatever what you choose. This is a relatively noncontroversial issue. In fact, my understanding is it is totally noncontroversial, so I hope we can get this business done before I have to go vote so that we can move forward at the next markup.

Mr. Sharpe.

STATEMENT OF MAITLAND SHARPE, ASSISTANT DIRECTOR, BUREAU OF LAND MANAGEMENT RESOURCES, PLANNING AND ASSESSMENT, DEPARTMENT OF THE INTERIOR, WASHINGTON, DC.

Mr. SHARPE. Thank you, Mr. Chairman, for inviting us here today.

My name is Maitland Sharpe. I'm the Assistant Director for the Bureau of Land Management. I'm pleased to have the opportunity to testify on this bill, H.R. 2464.

The basic provisions of the bill are as you have cited them. The Bureau of Land Management generally supports this legislation, although we have one amendment to suggest.

The bill is quite clean from our point of view. Only one existing grazing allotment would be affected and there would be no reduction in existing AUMs for that grazing permittee under the provisions of the bill.

We support the proposal for the equal value exchange of these Federal lands with the State of Utah and will move forward at a pace to affect those exchanges.

We support, in addition, the provisions under which the Goshute Tribe would pay the appraisal costs for these lands. Those appraisal costs are expected to be quite modest, something under $10,000 in total.

The one amendment that we would suggest has to do with liability. In our view, the bill would be improved if it included a provision that, not withstanding other provisions of law, the United States should not incur liability for prior existing conditions on the State lands that would be accepted in trust for the Goshute Indian Tribe. This is simply a matter of keeping the Federal taxpayer and the Federal interest whole in this transaction.

That concludes my testimony. I'd be happy to respond to any questions.

[Prepared statement of Mr. Sharpe appears in appendix.]

The CHAIRMAN. Mr. Sharpe, your recommendation for an amendment I think deserves serious consideration. I hope you will work with the staff.

Mr. SHARPE. I'd be pleased to do that.

The CHAIRMAN. I certainly would like the views of Mr. Kennedy and Mr. Harja on that amendment, but if we can all agree, we will include that in the amendment.

Again, I want to apologize for the short period of time we have to conduct this hearing, but we have basically two choices now, ei-

ther delay this hearing and cause a lot of witnesses and people some difficulties or get through with it as quickly as we can.

I want to assure any interested parties, we will not mark up this bill until probably next week on July 24, so in the intervening period of time, we will consider all views and input that anyone has on this issue.

Mr. Kennedy.

STATEMENT OF JOHN PAUL KENNEDY, GENERAL COUNSEL, GOSHUTE INDIAN TRIBE, SALT LAKE CITY, UT

Mr. KENNEDY. Thank you, Mr. Chairman.

As you noted, we've submitted a statement which also includes a statement by the current chairperson of the tribe in support of this legislation. I have just two comments in addition to the statement.

One is with respect to the proposed amendment. It's, of course, not a part of the House-passed version of the bill, it was not suggested by the Bureau in their testimony at that phase; it's also not a part of the original act which covers a vastly greater area.

The bill does contain a provision which protects valid existing rights already. We don't think that the amendment is necessary because it's a remote, undeveloped area and I don't think that the tribe is concerned about the potential for liability there.

The second comment, just briefly, is the statement of the Department indicates that the tribe shall pay or shall be required to pay the appraised cost for these lands. There's a subtle distinction between that and the wording of the bill which says the tribe shall be responsible for those costs.

That would be the only observations I would make. We appreciate the help of the committee.

Thank you.

[Prepared statement of Mr. Kennedy appears in appendix.]

The CHAIRMAN. Thank you. Perhaps we can sit down with the staff, see if we can resolve something right after this hearing is over or agree to disagree, either one, so that we can markup this bill on July 24.

By the way, I want to mention that Senator Hatch and Senator Bennett had hoped to be here but with this vote, they probably won't. Both of their statements will be made a part of the record.

[Prepared statements of Senator Hatch and Senator Bennett appear in appendix.]

The CHAIRMAN. I want to express my appreciation to both Senator Hatch and Senator Bennett for their support of this legislation.

Mr. Harja, welcome.

STATEMENT OF JOHN A. HARJA, VICE CHAIRMAN, BOARD OF TRUSTEES, SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION, STATE OF UTAH, SALT LAKE CITY, UT

Mr. HARJA. Thank you, Mr. Chairman.

My name is John Harja. I'm Vice Chairman of the Board of Trustees for the School Trust Lands.

We certainly support this. I would point out, despite what Mr. Kennedy said, that we discussed the issue of liability at great

length in the original bill, Public Law 103–93. There is, in fact, a clause in there that deals with liability for any number of issues and we agreed with the Federal Government and the Congress that liability would remain with the original owner of the property.

If that section is not sufficient, we're more than happy to consider whatever else might be necessary. I don't mean to disagree and cause any sense of problem here, but that is in the original bill.

I just want to point out that the original bill was an exchange of lands inside National parks, two Indian reservations and National forests for other Federal assets. This particular bill adds 8,000 acres that are next to the Goshute Reservation as opposed to being inside. Therefore, it wasn't, at that time, a priority for us. We're more than happy to consider it and contribute our time and effort to get this done, but the direct cost of appraisal, we don't feel, should be our responsibility. That is, the State of Utah. We don't care who, in the Federal Government, pays for them, but we don't think it's our responsibility.

That will conclude my time, Mr. Chairman.

[Prepared statement of Mr. Harja appears in appendix.]

The CHAIRMAN. Mr. Harja, are you aware of any legal, financial or environmental liability or encumbrance that is associated with the State land that would become part of the reservation pursuant to H.R. 2464?

Mr. HARJA. Other than some grazing leases, I don't believe there are. There are no mineral leases on the land at this time.

The CHAIRMAN. Mr. Kennedy, do you know what source of funding the tribe would use to pay for the appraisals?

Mr. KENNEDY. It would have to take money that is otherwise scheduled for other programs within the tribe, Mr. Chairman. We have agreed to be responsible for that in any event, so that is not an issue. We will work that out in the future.

The CHAIRMAN. Immediately after this hearing, I would appreciate it if all three of you would stay and get together with the staff and see if we can get this worked out so that we can mark up the bill next week at the next business meeting if possible.

I know that this is an issue of interest to the tribe, to the Administration and to the State of Utah. Unless there is some controversy associated with it, we'd like to move it forward for you as quickly as possible.

With that, I'll adjourn this part of the hearing.

Mr. Anderson, are you here? Nice to see you, Mr. Anderson.

Is Mary Belardo, who is the chairwoman of the Torres-Martinez Desert Cahuilla Tribe of Indians from Thermal, CA, here? I'm very happy to see you.

I have about 3 minutes before I have to go vote. I am aware that this issue is of a noncontroversial nature and that the administration and the tribe is supportive of this legislation.

Chairwoman Belardo, I can give you two choices. We can have a dramatically truncated hearing because I have to in about 2 or 3 minutes to vote or we can reschedule this hearing and ask you to come back another day. Which is your choice?

Ms. BELARDO. A truncated hearing.

The CHAIRMAN. Thank you and please proceed.

STATEMENT OF MARY BELARDO, CHAIRWOMAN, TORRES-MARTINEZ DESERT CAHUILLA TRIBE OF INDIANS, THERMAL, CA

Ms. BELARDO. Good morning, ladies and gentlemen, and honorable committee.

My name is Mary Belardo and I'm the tribal chairperson for the Torres-Martinez Desert Cahuilla Indians. I am here today to testify in support of S. 1893.

I would like to submit two statements of support for the record, one from the Coachella Valley Water District, the other from the Imperial Irrigation District. I also have statements from other tribes in our region that I would like to submit. These tribes include the Morongo Band of Mission Indians, Twentynine Palms Band of Mission Indians, Cahuilla Band of Indians, the Soboba Band of Mission Indians, Augustine Band of Mission Indians and the Agua Caliente Band of Cahuilla Indians.

The CHAIRMAN. Chairwoman Belardo, I'm going to have to stop you there. I did read your statement last night.

Ms. BELARDO. Fine.

[Prepared statement of Ms. Belardo appears in appendix.]

The CHAIRMAN. Mike, do you have any input you'd like to make?

STATEMENT OF MICHAEL J. ANDERSON, DEPUTY ASSISTANT SECRETARY FOR INDIAN AFFAIRS, BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR, WASHINGTON, DC

Mr. ANDERSON. No; I just want to state the administration fully supports the bill and appreciates your efforts to move this expeditiously.

[Prepared statement of Mr. Anderson appears in appendix.]

The CHAIRMAN. I would also like to acknowledge the important efforts that Senator Feinstein and Congressman Bono have made in moving this legislation. I have been badgered by them quite frequently to try and get this legislation done. They've done a fine job in supporting this legislation and we will try and mark it up on July 24 as well.

[Prepared statements of Senator Feinstein and Representative Bono, submitted for the record, appear in appendix.]

The CHAIRMAN. I would appreciate it if both of you would stay just to meet with the staff, with Dr. Zell and Mr. Heeley here to see if there's anything else additional that needs to be ironed out.

Thank you very much and I want to apologize, Chairwoman Belardo, for the short time period. We just have four votes and we would have great difficulty in reconvening the hearing today. I know your uppermost interest is to get this legislation done.

I also hope you appreciate the fact that we have done a lot of work on this legislation prior to this hearing in preparation to try to move the legislation forward which I understand, from reading your testimony, has been over 4 years in the making, is that right?

Ms. BELARDO. Yes; it has and we're very appreciative for every effort that has been made to help it move along.

The CHAIRMAN. Great. Thank you very much.

This hearing is adjourned.

[Whereupon, at 9:50 a.m., the committee was adjourned, to reconvene at the call of the Chair.]

APPENDIX

Additional Material Submitted for the Record

Prepared Statement of Maitland Sharpe, Assistant Director, Bureau of Land Management, Department of the Interior

Thank you for the opportunity to testify today on H.R. 2464, which amends Public Law 103–93 to add additional lands to the Goshute Indian Reservation in the State of Utah.

We support H.R. 2464 with a suggested amendment.

P.L. 103–93, "The Utah Schools and Lands Improvements Act of 1993" authorized and directed the exchange of approximately 200,000 acres of Utah's institutional and trust lands located within the boundaries of National Parks, National Forests or Indian Reservations for certain Federal lands and interests. This exchange was to resolve Federal and State land management problems resulting from interspersed land ownership. H.R. 2464 amends the 1993 Act by placing approximately 8,000 acres of land located within the boundaries of the Goshute Indian Reservation in trust for the tribe. Approximately 7,000 acres of this land are currently owned by the State, and will become part of the Reservation upon acquisition by the United States.

The public lands to be placed in trust include four parcels of about 320 acres where both the surface and subsurface are managed by BLM and another 960 acres of reserved Federal minerals.

The reserved minerals are not encumbered by any leases or claims of record. The four parcels under BLM surface management will be removed from an existing grazing allotment following passage of the bill. No reduction in authorized Animal Unit Months (AUMs) for the grazing operator's permit will occur as a result of these lands being converted to trust status.

The Secretary of the Interior must compensate the State of Utah for the State lands transferred to the Secretary through an equal value exchange of Federal lands or interests as described in section 7 of P.L. 103–93. This is a reasonable proposal and one which we support.

The bill requires the Goshute Tribe to pay the appraisal costs for these lands. We support this provision.

The bill is silent with regard to liability. We suggest that the bill include a section that provides that, notwithstanding any other provision of law, the United States shall not incur any liability for conditions existing on the State lands prior to the acceptance of title by the United States.

I would be more than happy to answer any questions you might have.

Prepared Statement of Hon. Robert F. Bennett, U.S. Senator from Utah

Senate Indian Affairs Committee H.R. 2464 The Goshute Indian Reservation Land Exchange July 18, 1996 Mr. Chairman, I appreciate the opportunity to make a few remarks this morning regarding the H.R. 2464. The purpose of this legislation

is to correct boundary problems on the Goshute Indian Reservation in Utah. As this is a noncontroversial land exchange, I will be brief in my remarks.

As you know, the Goshute Tribe is a federally recognized tribe whose reservation is located on the western border of Utah with about one-half of the Goshute Reservation actually located in Utah. We are seeking to transfer about 8,000 acres of State land to the tribe along with about 400 acres of public land administered by the BLM.

Back in 1993, the Utah delegation passed legislation which is commonly referred to the Utah Inholdings bill. The Inholdings bill was enacted without opposition which is unusual for most public lands legislation that impacted as many acres as did this. It transferred approximately 200,000 acres of Utah state lands to the Federal Government with the understanding that the Federal Government would compensate the state in an amount equal to the appraised value of the transferred land. One can imagine the complications that might arise when dealing with several different land management agencies both in the state and Federal Government.

When the law was passed, it was done so with the understanding that State lands located within the reservation boundaries of both the Navajo and Goshute Tribes would also be transferred to the United States to be held in trust for the respective tribes. At that time, the Goshute Tribe requested that the Utah delegation address a boundary issue on the reservation. After some initial negotiation, the tribe agreed to withdraw its request to address the boundary issue, contingent upon a commitment that we would resolve the issue at a later date. I would like to follow through on that commitment.

The "southern boundary issue" refers to a block of land which consists of 8,000 acres in a very irregular shape. Because of the remoteness and the configuration of the tract of land, it is almost impossible to properly manage and as a result, there have been several instances of poaching and trespassing. This legislation seeks to create a much clearer and more definitive boundary. The lands would be held in trust by the Federal Government for the benefit of the Goshute Tribe, which with the help of the BIA will be able to regulate grazing and other uses in the area. The tribe has agreed to be responsible for the cost of appraisals of the additional lands in the bill. This is quite a commitment, given the limited resources of the Tribe. I appreciate their willingness to assume such a commitment.

The legislation is supported by the State of Utah, Juab County, and the Board of Trustees of the School and Institutional Trust Lands Administration. From what I understand, the Department of the Interior does not oppose the bill. Perhaps most surprisingly, the Utah Wilderness Coalition does not oppose it either. I say this, because given the recent debate over the Utah Wilderness bill, many people in the State of Utah have wondered if the Utah delegation and the Utah Wilderness would ever be able to agree on anything. The Goshute Tribe has met at length with representatives from this very vocal group and have obtained their support. I appreciate their willingness to offer their support for the tribe.

Mr. Chairman, I hope my colleagues will support me in this effort to assist the Goshute Tribe in creating a more manageable border to the Goshute Reservation. I appreciate the Chairman's willingness to hold a hearing on this bill and I look forward to working closely with the committee to move it quickly through the legislative process.

PREPARED STATEMENT OF HON. ORRIN HATCH, U.S. SENATOR FROM UTAH

Thank you, Mr. Chairman.

First of all, let me express my sincere thanks and appreciation to you for scheduling this hearing in such a timely fashion. I recognize that the committee has a very full agenda in these remaining months, so I particularly appreciate your scheduling this bill for a hearing.

In 1993, Congress passed the "Utah Schools and Land Improvement Act," which I sponsored. This law provides a vehicle by which school trust lands located within Federal reservations in Utah—such as national parks, national forests, wilderness, and Indian reservations—could be exchanged for lands located elsewhere in Utah.

This law is critical to the overall management of Utah's school trust. When fully implemented, this law will help to ensure that Utah's schools receive the full and intended benefit of the trust lands.

The legislation before the committee today, H.R. 2464, proposes to amend that act and to include additional acreage now owned by the State of Utah within the southern boundary of the Goshute Tribe's Reservation.

This legislation is important to the people of Utah.

Unquestionably, it is at least as important to the members of the Goshute Tribe.

H.R. 2464 will resolve a long standing problem associated with the southern boundary of the tribe's reservation. The measure will improve the tribe's ability to manage and preserve their lands and, as a consequence, enhance the goals of tribal sovereignty and self-determination which this committee has fostered through the leadership of the Chairman and Vice Chairman.

The Goshute Reservation is located in a remote but extremely beautiful valley on the high desert to the southwest of the Great Salt Lake.

I understand that nearly half of the tribe's members live on the reservation. Extremely high unemployment has been a major problem on the reservation with nearly 70 percent of those eligible to work unemployed. This bill will help open up employment opportunities for tribal members, yet will not dilute the number of acres in the Federal inventory.

May I also take this opportunity to thank my good friend, Congressman Jim Hansen of Utah, who introduced this measure in the House and who successfully guided H.R. 2464 through passage.

Let me also welcome the witnesses to the committee today, especially Mr. Kennedy and Mr. Harja, who have traveled here from Utah to testify in support of the bill.

Mr. Chairman, let me conclude by saying this bill has wide support from many diverse groups including the Bureau of Land Management, the State of Utah, the Goshute Tribe, Juab County, and the Utah Wilderness Coalition.

I strongly support H.R. 2464 and urge my colleagues to support its passage.

PREPARED STATEMENT OF JOHN A. HARJA, VICE CHAIRMAN, BOARD OF TRUSTEES SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION STATE OF UTAH

Mr. Chairman, members of the committee, I want to thank you for the opportunity to address you today concerning H.R. 2464, a bill to amend the "Utah Schools and Lands Improvement Act of 1993." The Board of Trustees of the School Trust Lands Administration has passed a resolution in support of the concept of this bill, subject to the conditions discussed below. I would indicate support for the language of the bill as written.

The "Utah Schools and Lands Improvement Act of 1993" is a very important piece of legislation to the trust and schoolchildren of Utah. The act provided the framework for a proposed exchange of lands between the Federal Government and the school trust. The trust proposes to exchange approximately 575 separate tracts of lands, aggregating about 200,000 acres, to the Federal Government. In return, the trust would receive a couple of parcels of land, diversion of a royalty stream from mineral production in the State, and the right to produce coal until full value for the trust lands is received. The parties may also obtain resolution of disputes over value of the lands through the Federal district court system.

The act was signed on October 1, 1993. Since then, the parties have been engaged in a very involved process of arranging for (and paying for) the necessary appraisals of the lands. Obtaining "an appraisal" for the lands has turned out to be a very, very large project, involving the coordination of many experts. It is also, therefore, very costly, and the division of costs has the potential to be uneven, with the trust picking up the bulk.

The act is the mechanism to resolve the problem of school trust lands captured within National Parks, National Forests and the Navajo and Goshute Indian Reservations. It was not intended as a mechanism to resolve other boundary concerns of the parks, forests or reservations. However, notwithstanding the original purpose of the Act, the Board has considered the request by the Goshute Tribe found in H.R. 2464, and supports the request.

H.R. 2464 would add about 8,000 acres of trust lands found on the southern edge of the reservation to the process already under way for the larger exchange. The State and Federal Government would simply ask the existing team of appraisers, both surface and mineral, to look at the additional properties. The appraisers are already collecting comparables and the like, so the marginal cost of appraising these lands should be relatively small. Once appraised, and agreement on value reached, the trust would then be compensated out of the properties identified elsewhere in the act.

The Board has two conditions to its support however. First, because this is not an inholding, the trust does not have the same impetus to deal with its lands as in the larger exchange. Therefore, the trust will not expend moneys to appraise or otherwise determine the value of the lands covered by H.R. 2464. The trust will work to get the proposed exchange done, but will not pay for the direct costs of the appraisal, or any other work necessary to resolve the value of these lands.

Second, implementation of the act has proven to be a hard fought exercise. There are folks on both the Federal and State side that might like to seek other amendments to the act. The Board does now want to see any of those other possible amendments attached to this bill.

Thank you for the opportunity to testify.

PREPARED STATEMENT OF MARY BELARDO, TRIBAL CHAIRPERSON, TORRES-MARTINEZ DESERT CAHUILLA INDIANS

Good afternoon honorable committee members, ladies and gentlemen. My name is Mary Belardo. I am the Tribal Chairperson of the Torres-Martinez Desert Cahuilla Indians, and I am here to testify in support of S. 1893. As you know, this bill was introduced by Senator Dianne Feinstein and is designed to facilitate the settlement of litigation involving my tribe, the Federal Government, Imperial Irrigation District, and Coachella Valley Water District.

My main purpose today is to explain why this bill is so important to my tribe. I want you to understand who the Torres-Martinez Indians are, how we came to be burdened by the problems which this bill addresses, and what this bill will do for us. At the end of my statement I will be happy to answer any questions you may have.

My tribe has a little over 500 members, of whom about 130 presently reside on the Torres-Martinez Reservation. More of the members would like to live in our reservation community, but limited employment opportunities have forced our members to scatter all over southern and central California.

In terms of money, we are poor. Our tribal government has essentially no trust funds or other savings, and struggles to provide a minimum level of services to our people with help from Federal Indian programs. According to the latest official survey in 1984, some 76 percent of our tribal members had incomes below the poverty level. Those members who are employed generally have low-paying jobs, barely sufficient to support themselves and their families. Although the Torres-Martinez Tribe is working very hard to create jobs for our people on or near the reservation, thus far our economic development efforts have not been very successful.

In terms of human values, we are rich. Our people have lived in the same area of Southern California for many hundreds of years, and we take pride in our tribal identity. Our elders have passed down to us our own native language, culture, and value system; and we adults are taking care to pass this precious heritage down to our children and grandchildren. We respect our non-Indian neighbors and their ways of life, but we care deeply about preserving and enhancing our own unique Torres-Martinez community.

My Tribal Council asked me to emphasize one more thing about who we are: The Torres-Martinez Desert Cahuilla Indians are an Indian Nation, one of those Indian tribes which the United States Constitution recognizes as sovereign governments, along with the individual States and Federal Government. President Clinton has reaffirmed the importance of the government-to-government relationship between the Indian tribes and the United States. Your consideration of the bill before you today is further evidence of the importance of this government-to-government relationship—and how the Federal Government can work together with an Indian government to resolve problems such as the one addressed by S. 1893.

Most desert Indian tribes share the common problem of insufficient water. Our Tribe has the unusual problem of too much water. Although we are located in a naturally dry desert basin, about one-half of our Reservation has been under water since 1905. This flooding problem was originally created by an accidental outbreak of the Colorado River into the Salton Basin, but the resulting "Salton Sea" has since been maintained largely because of irrigation discharges into the Salton Basin by non-Indian farmers. Please understand that I am not here today to complain about the farmers, who understandably feel that they have only been doing what the Federal Government has encouraged them to do.

Irrigation discharges into the Salton Sea have long been supported by various Federal Government actions, including: Presidential Orders in the 1920's, creating a permanent flooding basin on our Indian trust lands; the Federal Government's construction of the Boulder Dam Project in the 1930's, providing more irrigation waters to flood our Indian lands; the Federal Government's construction of the Coachells Canal in the 1940's, providing still more irrigation waters to flood our lands; and the Federal Government's continued supply of irrigation waters flooding our lands, which goes on as I speak to you today.

As you can see, for the past 70 years the Federal Government has been a large part of our problem. Now you have the opportunity to make the Government a cor-

respondingly large part of our solution. The executive branch of the Government has agreed to a settlement which will terminate several pending legal proceedings, give the irrigation districts the permanent flooding easements they need, and provide the tribe with important monetary and land-replacement benefits. Your action is needed to implement the Federal Government's portion of the settlement agreement.

On behalf of the Torres-Martinez Desert Cahuilla Indians, I ask that you act favorably on the bill before you. Thank you for Your Kind Attention. I will be happy to answer any questions you may have.

PREPARED STATEMENT OF MICHAEL ANDERSON, DEPUTY ASSISTANT SECRETARY, INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

Mr. Chairman, I am here today on behalf of the administration to testify in favor of S. 1893, which, if enacted, will ratify the June 18, 1996 settlement agreement resolving claims and issues related to lands held in trust by the United States for the benefit of the Torres-Martinez Indians. Before I begin, I would like to first thank you and the committee for so promptly holding this hearing after the introduction of S. 1893. The resolution of this long-standing dispute between the tribe and two water districts in Southern California is long overdue and the committee is to be commended for its efforts to implement the underlying agreement as is Senator Feinstein for her efforts in introducing S. 1893.

H.R. 3640, the House companion bill to S. 1893 introduced last month by Congressman Bono, is expected to be favorably voted out of the House Committee on Natural Resources within the next few days.

Given the spirit of bipartisanship demonstrated by the House committee and reflected in the sponsorship of the two bills, we are confident that S. 1893 will receive the same broad support given to H.R. 3640. Indeed, everyone involved in the effort to reach a settlement of this matter has gone to great lengths to secure the support of those parties who stand to be affected by implementation of the agreement. For its part, the Department of the Interior engaged in widespread discussions with Federal, tribal and local governmental authorities on the impact of the settlement. Letters of support for the settlement have been received by each of the neighboring tribes to the Torres-Martinez Reservation, with the exception of the Cabazon Tribe which was inadvertently omitted from the list of tribes contacted about the settlement. Since the hearing on this bill before the House Native American Affairs subcommittee, the Department has explained the settlement to officials of the Cabazon Tribe.

The Torres-Martinez Indian Reservation, located in the vicinity of the Salton Sink in the Coachella Valley, California, was first established by executive order in 1876 and enlarged under executive orders in 1891 and 1909. The origins of the dispute may be traced back to the years 1905 to 1907 when flood waters of the Colorado River filled the Salton Sink, inundating a portion of the Torres-Martinez Reservation and creating what is today known as the Salton Sea. At the time, it was expected that the water level of the Salton Sea would recede through the process of evaporation within a period of 25 years and that previously flooded lands would dry out. However, due to natural runoff and agricultural drainage water from the Imperial, Coachella Valley and Mexicali irrigation systems that flow into the Salton Sea, approximately 11,800 acres of tribal and allotted lands were, and have remained, inundated from as early as 1924.

In 1982, the United States brought an action in trespass against the Imperial Irrigation District and Coachella Valley Water District on behalf of the Torres-Martinez Tribe. On August 25, 1992, the court entered a final judgment which found the irrigation districts liable for trespass but denied the United States' request for injunctive relief and ejectment. Subsequent to the judgment, the Department and the Department of Justice engaged in negotiations with the tribe and irrigation districts in an effort to correct what the agencies believe is an inequitable judicial result and to avoid a lengthy and costly appeal. A second objective of the settlement negotiations was the resolution of claims brought by the tribe in a separate lawsuit against the United States and the districts, as well as potential claims against the United States.

After several years of difficult and contentious negotiations among the parties and countless discussions with entities that stand to be affected by resolution of this historical wrong, the parties have reached a settlement which the Department believes is a significant step toward fulfilling the Torres-Martinez Tribe's quest for self sufficiency.

In its present form, S. 1893 accurately reflects the essential provisions of the settlement agreement negotiated and executed by the parties. In addition to approving,

ratifying, and confirming the settlement agreement in its entirety, the bill specifically provides for the following essential terms of the agreement:

Monetary contribution of approximately $14 million from the U.S. and irrigation districts to the tribe. Of the $10.2 million to be paid by the U.S., the bill authorizes a payment of $4.2 million from the Judgment Fund and $6 million from appropriated moneys.

Subject to certain conditions specified in the bill and Agreement, the Department would take into trust up to 11,800 acres of land (an amount equal to the flooded area) purchased or otherwise acquired by the tribe within two separate acquisition areas. The primary area of acquisition extends from the Riverside—Imperial County line north to just north of the Thermal Airport. The secondary acquisition area extends from the northern boundary of the primary area to just south of Cathedral City. Both areas lie roughly within the west and east boundaries of the Coachella Valley. Trust acquisitions within the secondary area is limited to 640 acres and must be consolidated into no more than two separate parcels. Trust acquisitions in the primary area would be limited to 11,800 acres minus the number of acres acquired in trust in the secondary acquisition area.

Land purchased or otherwise acquired by the tribe in the secondary acquisition area would be taken into trust only if the local governing body or Riverside County did not object to such trust acquisition. The same restriction for taking land into trust would apply to land acquired by the tribe within the boundaries of an incorporated city located in the primary acquisition area. In this regard, it is noted that both the Agreement and the bill are intended to provide the tribe and local authorities the opportunity and flexibility required to reach agreements to address particular concerns related to taking land into trust. For instance, nothing in the bill prohibits the Tribe and a particular city from negotiating an agreement providing for the rights and obligations of each with regard to certain issues that may arise after the land is in trust. Such an agreement, properly entered into, would be an enforceable contract in a court of competent jurisdiction.

Lands located within either area and situated within a one mile radius of the reservation lands of any other Indian tribe would be eligible for conveyance into trust only with the consent of the affected Indian tribe.

The irrigation districts would be granted an easement in perpetuity as to all lands within the -220' contour of the Salton Sink. The Agreement would not affect the ability of the United States to initiate actions to enforce applicable water rights or environmental laws.

The tribe's right to conduct gaming on lands taken into trust pursuant to the Agreement is limited and restricted to one gaming operation on one physical site.

Any and all rights which the tribe now enjoys under existing law are not affected by the bill or the provisions of the Agreement.

This concludes my statement. I will be happy to answer any questions the committee may have.

PREPARED STATEMENT OF HON. DIANNE FEINSTEIN, U.S. SENATOR FROM CALIFORNIA

Thank you, Mr. Chairman and members of the committee.

I appreciate your giving me the opportunity to talk to you today about S. 1893, the Torres-Martinez Land Settlement Act.

Over the last year, the administration, the Torres-Martinez Tribe, and both the Coachella Valley and Imperial Irrigation water districts have worked long and hard to reach an agreement that would replace reservation lands the Torres-Martinez Tribe lost due to flood waters of the Colorado River and drainage from the irrigation systems.

After more than 10 years of litigation and nearly 5 years of negotiations, all parties have finally reached a settlement. This is a negotiated settlement to which all the parties have agreed. While I was not involved in negotiating this agreement, as the Senators from California, Senator Boxer and I have agreed to support legislation that will approve the agreement, authorize the appropriation as outlined in the settlement, and finally bring closure to this dispute.

This settlement agreement will resolve concerns about water drainage and land-use, and allow the Highway 86 improvement project to progress.

Specifically, the agreement:

- Gives the two water districts a permanent drainage source the Salton Sea.
- Provides monetary compensation to the tribe for its flooded reservation land.

- Another aspect of this agreement is gaming. The agreement includes a provision that will allow the Tribe one gaming site on land acquired in the Coachella Valley.
- More important, the Tribe can acquire land in this area only if the local governing body and Riverside County does not object. The local governing body and the County have the authority to object and veto the tribe purchasing land in this area.

I believe local consent is the most important aspect of the settlement agreement. I am increasingly concerned about the potential impact of gaming on local communities and law enforcement. As you may know, last October, gunfire erupted at the El-em Colony of the Pomo Indian Tribe in Lake County, California between armed factions of the tribe over control of their casino.

After 2 days of gun battles, the Lake County Sheriff contacted my office regarding his department's need for Federal assistance. At full mobilization, officers from five neighboring counties and the California Highway Patrol, U.S. Marshal Service, and the FBI responded to the Sheriff's request for help. Although nine people were shot, thankfully, no deaths resulted from the violence.

Since the casino opened 2 years ago, Sheriff's deputies have increasingly been called to the reservation. I am concerned about the impact this gaming operation has had on the community. Both local officials and law enforcement have informed me that they are concerned about the burden this has placed on the Sheriff's department's budget and its effect on the department's ability to serve the rest of the county.

The incident in Lake County should serve as an example of the problems gaming can present to local communities and law enforcement. According to the National Indian Gaming Commission, approximately 50 gaming sites exist or have been proposed in California. I strongly believe that local communities should have an ironclad right to object to a gaming complex in its community. I am in the process of calling city officials in the Coachella Valley to ensure that they understand that this legislation does not mandate gambling in their communities. The Departments of the Interior and Justice have assured me that this local consent provision is binding and that the Secretary of the Interior cannot take land into trust if it receives objections from the local communities.

Therefore, I urge the committee to retain the local consent authority in the final committee report on this legislation and I urge the committee to support its passage.

Thank you Mr. Chairman and committee members for considering this legislation.

PREPARED STATEMENT OF WILLIAM R. CONDIT, PRESIDENT, BOARD OF DIRECTORS, IMPERIAL IRRIGATION DISTRICT

Mr. Chairman and members of the committee, I would like to thank you for inviting me to provide testimony for today's hearing. I am the President of the Board of Directors of the Imperial Irrigation District and have served on that board for 17 years. The IID was formed in 1911. It delivers Colorado River water, developed and diverted by the United States by works constructed pursuant to the Boulder Canyon Project Act of 1928, to approximately 500,000 acres of land in Imperial Valley, CA.

These works include Boulder Dam, a principal storage facility, Imperial Dam, the principal diversion facility, and the All-American Canal, the principal delivery facility. Our annual diversions fluctuate according to need, which is greatly affected by climactic conditions and cropping patterns, but amount to about 3-million acre feet.

The Imperial Irrigation District supports S. 1893 and urges its rapid approval by this committee and the Congress.

Our interest in S. 1893 is mainly related to maintaining the integrity of the drainage reservoir commonly known as the Salton Sea. The lands underlying it are all below sea level (between minus 220-foot and minus 275-foot). There is no outlet to the Gulf of California.

A Department of the Interior report in 1927, before the passage of the Boulder Canyon Project Act, recognized the desirability of designating all lands in the Salton Sink below the minus 220-foot contour (about 250,000 acres) as necessary for establishing a drainage reservoir to receive water from natural inflow (precipitation, runoff, and floods) and from irrigation and drainage in Imperial and Coachella valleys and the Mexicali Valley in the Republic of Mexico.

For that purpose President Coolidge, by two executive orders, set aside about 120,000 acres of public lands. One order created Public Water Reserve 90 on March 10, 1924 and the other created Public Water Reserve 114 on February 23, 1928. These were lands below the minus 220-foot contour. By acts in August 1950 and

August 1958 Congress gave additional recognition of the need for tribal lands below the minus 220-foot contour to be used as a drainage reservoir.

Disputes about the nature, extent, and validity of these Presidential or Congressional actions resulted in litigation brought on behalf of the Torres-Martinez Tribe against the Imperial and Coachella districts. This pending litigation resulted in a Federal District Court judgment in San Diego on August 20, 1992, which has been appealed by all parties to the Ninth Circuit Court of Appeals.

This bill would approve a settlement agreement reached by all parties (Imperial, Coachella, the tribe and the United States). The IID will pay to the United States $3,670,694.33 for the benefit of the Torres-Martinez Tribe. It will receive a permanent flowage easement over tribal and Federal lands below the minus 220-foot contour covering about 120,000 acres underlying or adjacent to the Salton Sea. The IID owns about 120,000 acres of land contiguous to these tribal and Federal lands, which taken together provide the lands that underlie the Salton Sea.

Our continued reliance upon the Salton Sea drainage area is vital to the agricultural economy of the Imperial Valley. Located along the Colorado River and the Mexico/California border, the valley supports an annual agricultural economy of more than $1 billion. Leading crops include alfalfa, Sudan grass, wheat, cattle feeding, and quality winter vegetables such as carrots, onions, asparagus and tomatoes. Our growers' continued reliance upon the Salton Sea to receive and store drainage water is extremely important to an area with the highest annual unemployment rate in the state of California. In addition, the drainage water that flows into the Salton Sea is the only source of water, the very lifeblood of a very diverse wildlife community and a critical component of the Pacific flyway for migratory waterfowl.

Mr. Chairman, the settlement accord between the parties has been very long in the making and all the parties involved have worked diligently to reach this step in the process. I would particularly like to thank the Departments of the Interior and Justice and Senators Feinstein and Boxer for their efforts. Passage of S. 1893 would bring the parties that much closer to resolution of this long-standing matter and help us build up on the cooperative ties that have been created throughout 4 years of negotiation.

For these reasons, Mr. Chairman and Members of the Committee, the Imperial Irrigation District supports passage of the S. 1893 and would like to thank you for your efforts to expedite this legislation.

Again, thank you for giving me an opportunity to submit testimony.

PREPARED STATEMENT OF THE CABAZON BAND OF MISSION INDIANS

Over 11,800 acres of Torres-Martinez Reservation land lies submerged beneath the Salton Sea. Compensation for this loss is long overdue and rightly deserved. They, like most Native American tribes, have been victims of injustice. S. 1893, introduced by Senator Dianne Feinstein as a companion bill to H.R. 3640, introduced by Congressman Sonny Bono, compensates the Torres-Martinez Tribe for this loss. This compensation comes, however, at the expense of impacting the very livelihood of the Cabazon Band of Mission Indians.

S. 1893 gives the Torres-Martinez Tribe the unprecedented and preferential right to purchase up to 640 acres for a gaming facility as much as 15 miles west of their traditional reservation boundaries. The Indian Gaming Regulatory Act (IGRA), established by Congress in 1988, expressly forbids new land being taken into trust for gaming use without meeting the stringent requirements laid out to protect both neighboring Indian and non-Indian communities. This legislation flies in the face of IGRA and makes an end run to circumvent these procedures. Our Constitution, in the Fourth Amendment, requires due process. Where is that due process in this case?

The Torres-Martinez Tribe has misrepresented to both Congress and local communities that they do not have any existing agreements with gaming interests and no plans to pursue gaming. The Cabazon Tribal Council was also told by Torres-Martinez that they had no agreements or intentions to pursue gaming. This is untrue as the Cabazon Tribe learned that Lee Iacocca, along with Allen Paulson, CEO of Full House Resorts, Inc., are the primary strategic players behind S. 1893 and its language, having formed a joint venture with GTECH Corporation to develop a casino on the Torres-Martinez Indian Reservation. On Friday, July 26, 1996, The Desert Sun, a local Coachella Valley newspaper and subsidiary of Gannett Corporation, released detailed information regarding this ploy.

Congressman Bono's office would have you believe that this is a competitive issue between two Indian tribes—the Torres-Martinez Desert Cahuilla Indians, a poor tribe and the rich, greedy Cabazon Band of Mission Indians. No, this is about our

tribe protecting its rights and ensuring that due process is followed for the sake of all future parties. It's whether proper procedures were followed, notices were given, and meaningful consultations have been conducted. This process would have quickly revealed the positions and issues of the Cabazon Tribe and other local governments, and especially, the existence of big money/big plans/with a large gaming interest lurking in the shadows beyond the watchful gaze of Congress.

How can one injustice be corrected by another? Full House is planning to ride in on the backs of the Torres-Martinez Tribe, to establish themselves as major players in California Indian gaming. In other words, "justice" for the Torres-Martinez Tribe at the cost of pitting a major multi-national corporation and its bankroll against other California Indian gaming tribes.

The Cabazons worked diligently for years to establish one of the first Indian gaming operations in the United States. Other tribes have followed suit, and have prospered as a result of the *Cabazon* Decision. We are pleased, but ask that all must play by the same rules.

Congressman Bono's office believes that the Cabazon Band of Mission Indians is attempting to hold a poor tribe down, to keep them in their place, to stifle competition. Nothing could be further from the truth. Competition is a given in Indian gaming. There are five other reservations in our area, and seven established gaming centers within 45 miles. Thus, we deal with competition every day. The truth is that Cabazon Band of Mission Indians welcomes the Torres-Martinez Tribe into gaming and prosperity. Our objection is to the Torres-Martinez (Full House Resorts, Inc.) gaming facility being located within our traditional territorial area.

The Cabazon Band of Mission Indians only wants a level playing field. We built our casino in the sand and sagebrush of Indio, California. That is the hand we were dealt and that is the hand we have played. We ask only that the Torres-Martinez play the same hand. Do not allow them to leapfrog over three other reservations and seven cities to purchase prime land directly between the Cabazons and the prime market they have worked so long and hard to develop.

Full House is poised to become a major player in California gaming, using the Torres-Martinez Tribe as their jumping off point. Do not let this non-Indian corporation, with worldwide gaming interests, use the sovereign rights of an Indian tribe as a back door to exploit an end run at the due process set out in the Indian Gaming Regulatory Act of 1988.

Yes; the Cabazons are wary of competition—big money, big name non-Indian competition. At best, it is unfair to the Cabazons and a precedent that all other gaming tribes should fear. At worst, it is, or should be, illegal.

PREPARED STATEMENT OF HON. SONNY BONO, U.S. REPRESENTATIVE FROM CALIFORNIA

Thank you, Mr. Chairman and members of the committee. I appreciate being given the opportunity to talk to you today about S. 1893, the Torres-Martinez Land Settlement Act. My good colleague, Senator Feinstein, has introduced this bill as a companion bill to my bill, H.R. 3640.

When I first came to Washington as a Congressman, an 80-year dispute among the Federal Government, the Torres-Martinez Tribe and two Southern California water districts was still not resolved. This was causing many hardships for the parties involved and continued uncertainty about water drainage and land-use in my district, and was threatening the progress of very important safety improvements to Highway 86, or the "Killer Highway" as my constituents have come to call it.

Over the last year, with input from Senator Feinstein and myself, all of the parties involved—the Administration, the tribe and the water districts—have worked long and hard to reach a settlement agreement. After 15 years of litigation and nearly 5 years of negotiations, a settlement has finally been reached. This is a negotiated settlement to which all the parties have agreed.

In my view, it is a fair agreement. All sides give and get something. The settlement does more than end this dispute. It gives the tribe—one of the poorest in the Nation—fair compensation and new hope for a better future. This is particularly important, since the tribe has been denied the use of nearly half of its land due to decades of flooding. It gives the water districts and the communities they serve a secure drainage source. It removes the shadow of uncertainty from local transportation and land-use projects. It is a settlement that the tribe, the water districts and the Administration can all be proud of. I thank all of the parties, including Administration officials and staff and my colleague from California, Senator Feinstein, for their hard work and cooperation with one another and my office to make this agreement possible this year.

S. 1893 ratifies the settlement agreement and brings closure to this dispute. It includes all the main points of the agreement and has broad-based local support. Several months prior to introduction, communities affected by the agreement, as well as California's Governor and attorney general, were given copies and invited to comment, even though they are not parties directly involved in the settlement. It is important to note the close involvement local entities had in drafting this bill. From January through the introduction of the bill in June, my office engaged in an extensive public information effort. Myself and my staff met personally with representatives of each city affected by this agreement on several occasions months prior to introduction of the bill. We also provided briefing opportunities for other interested parties, including all of the Indian tribes in the Coachella Valley over a month prior to introduction. No cities have opposed the bill, and, in fact, the County of Riverside and some—of the local city councils have already passed resolutions in support of the legislation. I am including the County's unanimous resolution in my written testimony for the record.

Of the 10 tribes in my district, there is one which has expressed concern about specific provisions of the bill: the Cabazon Band of Mission Indians. After introduction of the bill, the Cabazon Tribe expressed its concern about the impacts potential Torres-Martinez economic development may have on their own economic enterprises. I have carefully considered the Cabazon's concerns, and have encouraged the Cabazon Tribe to work directly with the Torres-Martinez to discuss their concerns, sovereign nation to sovereign nation. This settlement agreement and legislation provide the tribes with the flexibility to do this on their own. All of the other casino-operating tribes in my district, including a tribe located one mile from the Cabazon, have endorsed this bill. I am including their letters with my written testimony.

Thank you, Mr. Chairman and committee members, for considering this legislation. I urge the committee to support its passage.

SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

FROM: Supervisor Wilson SUBMITTAL DATE: 5-29-96

SUBJECT: SUPPORT OF LEGISLATION FOR SETTLEMENT WITH TORRES-MARTINEZ INDIAN TRIBE

RECOMMENDED MOTION:

That the Board take a position in support of the attached draft legislation, proposed by Congressman Sonny Bono and providing for settlement with the Torres-Martinez Indian Tribe by providing compensation for acquisition of lands in the Coachella Valley; further, direct the County Executive Office to immediately forward copies of the Board Minute Order to members of California's Congressional delegation.

JUSTIFICATION: The accidental creation of the Salton Sea in 1905-1907 resulted in approximately 12,000 acres of Torres-Martinez Tribal lands in the southeastern Coachella Valley being either underwater or unusable. There has been litigation since 1982 by the Federal Government on behalf of the Tribe against Coachella Valley Water District and Imperial Irrigation District, and the Tribe itself filed litigation in 1991. In addition to the issue of compensation to the Tribe, the completion of Highway 86 is also at risk, as the alignment and construction of the highway is contingent on right-of-way on existing Tribal lands.

The attached draft legislation has been developed in consultation with all parties, and I am advised that all are in agreement with its provisions. It provides the Tribe with funds to acquire 12,000 acres, either in entirety in the "primary" acquisition area (Avenue 56, also known as Airport Blvd., south to the Riverside/Imperial County line) which is adjacent to existing Tribal lands, or up to 640 acres (out of the total 12,000) in the "secondary" acquisition area (the remainder of the Coachella Valley, generally from Desert Hot Springs southeast to Avenue 56).

Finally, the legislation authorizes the Tribe to establish a single gaming site, and provides land use jurisdictions within the secondary acquisition area with the ability to protest acquisition/conversion of land to Tribal status within 60 days of being notified of the Tribe's intent.

County Counsel worked directly with Congressman Bono's staff in development of the draft legislation, and I urge the Board's support of this proposed settlement.

Roy Wilson Roy Wilson

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Tavaglione, seconded by Supervisor Buster and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Ceniceros, Wilson and Mullen
Noes: None
Absent: None
Date: June 4, 1996
xc: Supv. Wilson, E.O., Legislative Reps.

Gerald A. Maloney
Clerk of the Board
By Margaret Bamm Deputy

Prev. Agn. ref. Depts. Comments Dist. 3 AGENDA NO. 3.2 21

AGUA CALIENTE BAND OF CAHUILLA INDIANS

ONE HUNDRED TEN
NORTH INDIAN CANYON DR.
PALM SPRINGS,
CALIFORNIA
92262
TELEPHONE
(619)325-5673
FAX
(619)325-0593

June 26, 1996

The Honorable Sonny Bono
U S House of Representatives
Washington, DC 20515

Dear Congressman Bono:

On behalf of the Agua Caliente Band of Cahuilla Indians, I would like to thank you for your efforts to keep our Tribal Council informed on the status of HR 3640, the Torres Martinez Desert Cahuilla Indians Claims Settlement Act. Upon review, we can find no reason to oppose this legislation. Further, we believe the negotiations leading to this legislation reflect the proper government-to-government relationship envisioned by the founders of this Nation.

Please feel free to contact me if I can be of any assistance to you in the future.

Respectfully yours,

Richard M. Milanovich
Chairman, Tribal Council
AGUA CALIENTE BAND OF CAHUILLA INDIANS

RMM:jsw
TC-991-06-96

Soboba Band of Mission Indians

P.O. BOX 487 • SAN JACINTO, CA 92581 • TELEPHONE (909) 654-2765

June 26, 1996

Honorable Sonny Bono
U.S. House of Representatives
512 Cannon Office Building
Washington D.C. 20515

Dear Congressman Bono:

The Soboba Band of Mission Indians supports your proposed bill concerning a land settlement with the Torres-Martinez Band of Mission Indians.

We believe a settlement will provide long overdue compensation to the Torres-Martinez Band for their land which was rendered useless since the early 1900's. We are pleased the federal government and the Band have reached an agreement. The settlement will not only benefit the Torres-Martinez Band but also the surrounding communities.

The Soboba Band appreciates your efforts in reaching a settlement and your support of Native Americans.

Sincerely,

Carl Lopez

Carl Lopez, Chairman

cc: Mary Belardo, Chairperson
Torres-Martinez Band of Mission Indians

MORONGO BAND OF MISSION INDIANS

11581 POTRERO ROAD
BANNING, CALIFORNIA 92220-2965
(909) 849-4697

June 26, 1996

The Honorable Sonny Bono
U.S. House of Representatives
512 Cannon House Office Building
Washington, DC 20515-2961

Dear Congressman Bono:

On behalf of the Morongo Band of Mission Indians, I am writing to you in support of HR 3640, the Torres Martinez Desert Cahuilla Indian Claims Settlement Act. Once again you have demonstrated your concern regarding Indian issues and a clear understanding of tribal sovereignty.

Your dedicated efforts on this legislation show that you are committed to ensuring that land and natural resources are resolved fairly and equitably for Indian tribes.

Your willingness to solicit input from each of the Indian communities in our area while developing this bill shows a rare sensitivity to the needs of Indian communities.

In Indian Country your leadership is fast becoming a ray of renewed confidence and hope in the American system. With your help and the support of your colleagues, Native Americans are recapturing their dignity and pride.

The Morongo Band of Mission Indians strongly support HR 3640.

Sincerely,

Mary Ann Andreas
Tribal Chairperson
Morongo Band of Mission Indians

CAHUILLA BAND OF INDIANS
P.O. BOX 391760, ANZA, CA 92539-1760
(909) 763-5549 FAX# 763-2808

June 25, 1996

Honorable Sonny Bono
Congress of the United States
44th District, California
512 Cannon House Office Building
Washington, DC 20515

Honorable Congressman Bono:

We the Cahuilla Band of Indians does support the "Torres Martinez Desert Cahuilla Indians Claims Settlement Act of 1996". We understand that the term of this act supports a settlement between the Torres Martinez Desert Cahuilla Indians, local water districts and the federal government.

The terms of the settlement agreement calling for compensation to the Torres Martinez tribe in the amount of $14 million. In addition, the tribe will be able to acquire 11,800 acres of land within boundaries specified in the bill.

Acquisition by the tribe will have no impact on existing water rights of the local communities and tribes. The Torres Martinez tribe will be allowed one limited gaming site on the newly acquired lands. Local cities, county and tribal governments will have the ability to veto acquisition of new lands within their jurisdiction.

We the Cahuilla Band of Indians supports Member of Congress Sonny Bono on the bill H.R. 3640.

Sincerely,

Michelle Salgado

Michelle Salgado
Tribal Chairperson
Cahuilla Band on Indians

TWENTY-NINE PALMS
BAND OF MISSION INDIANS

FAX No. (202) 225-2961

June 26, 1996

Honorable Sonny Bono
U.S. House of Representatives
512 Cannon Office Building
Washington D.C. 20515

Dear Congressman Bono:

The Twenty-Nine Palms Band of Mission Indians, owners of the Spotlight 29 Casino located near Coachella, California, offers its support to your proposed bill concerning a land settlement with our nearby Native American neighbors, the Torres Martinez Desert Chahuilla Indians.

We believe that such a settlement will provide long overdue compensation to the Torres Martinez for their land which was flooded and rendered virtually useless since the early 1900's, and are pleased that the federal government has reached a solution which is acceptable to them.

The resolution will not only benefit the Torres Martinez but will also offer potential benefits to the surrounding communities by providing the Torres Martinez the opportunity to join with local efforts to enhance the economy and well being of citizen's in the area.

We appreciate your efforts to keep us informed of the settlement because of its effect on the overall community, and look forward to other cooperative efforts with your office in the future.

Sincerely,

Dean Mike

Dean Mike, Chairman

cc: Tribal Council
Mary Belardo, Chairperson
Torres Martinez
Gene Gambale, General Counsel

46-200 HARRISON STREET, COACHELLA, CALIFORNIA 92236
619-775-5566 • FAX 619-775-4639

STATEMENT OF JOHN PAUL KENNEDY IN SUPPORT OF H.R. 2464 AND SENATE 1766 BEFORE THE COMMITTEE ON INDIAN AFFAIRS UNITED STATES SENATE
July 18, 1996

My name is John Kennedy. I am General Counsel for the Confederated Tribes of the Goshute Reservation, which is headquartered at Ibapah, Utah. I have served as the Goshute attorney for 24 years. The Tribe has authorized me to appear today on its behalf in support of H.R. 2464 and Senate 1766, which are identical bills amending P.L. 103-93, "the Utah Schools and Lands Improvement Act of 1993 (107 Stat. 995)." The House of Representatives passed H.R. 2464 during April of this year. Passage was without opposition.

The Goshute Tribe is a federally recognized Indian Tribe located on the border of Utah and Nevada about 60 miles south of Wendover, Utah. Approximately one-half of the Reservation is in Nevada and the other half is in Utah. The purpose of this bill is to correct some boundary problems along the southern edge of the Reservation in Utah. If enacted, this bill would lead to the transfer to the Tribe of about 8,000 acres of Utah State land and about 400 acres of public land administered by the Bureau of Land Management.

Public Law 103-93, which would be amended by this legislation was enacted without opposition in 1993. That law transfers approximately 200,000 acres of Utah State land to the federal government in consideration for compensation in an amount equal to the appraised value of the transferred land. The 1993 law contemplated that Utah State lands within the reservations of the Navajo Tribe and the Goshute Tribe would be transferred to the United States to be held in trust for the respective Tribes.

At the time Public Law 103-93 was being considered by Congress, the Goshute Tribe asked that the southern boundary issued be resolved as a part of the legislation. To avoid slowing passage of the 1993 bill, however, the Goshute Tribe agreed to withdraw the southern boundary issue from consideration and concurred with the plan to bring the matter up later in the form of an amendment.

The "southern boundary issue" simply refers to a block of land lying along the southern boundary of the Utah portion of the Reservation. That block of land consists of approximately 8,000 acres of land in a very irregular shape. Because of the remote location and present configuration of that block of land, proper management of the land has been virtually impossible. The State, BLM, and the Tribe have been unable to prevent problems of trespassing and poaching. Fencing and patrolling have

been costly and difficult.

The result of the proposed amendment would create a boundary with a much dearer definition. The lands would be held in trust by the United States for the benefit of the Goshute Tribe, which (with the help of the Bureau of Indian Affairs) will be able to regulate grazing and other use of the area.

The Tribe has met at length with representatives of the Utah Wilderness Coalition and has obtained the support of that group for this proposal. In addition, the local State county of Juab has also consented to the proposal. Finally, the Board of Trustees of the School and Institutional Trust Lands Administration of the State of Utah has adopted a resolution (No. 95-02) in support of this proposal. Copies of documents from each group are attached to this statement. Also attached is a copy of a map depicting the subject area.

The Tribe has agreed, if this amendment is enacted, to be responsible for the cost of appraisal of the additional lands involved in this proposed legislation. Of course, the cash resources of the Tribe are extremely limited, and we hope that we will be able to obtain the assistance of others in this process.

Prior to this hearing, we have been informed that the Department of the Interior does not object to this bill. With the support of the State of Utah, conservation interests, and the local county along with that of the Tribe, we feel that this proposed legislation is now in a position to be favorably considered by this committee and, hopefully, later by the full Senate.

The Tribal Chairperson, Christine Steele, has prepared a short statement to be included in the record.

John Paul Kennedy
1385 Yale Avenue
Salt Lake City, Utah 84105
(801) 583-6170

STATEMENT OF CHRISTINE STEELE IN SUPPORT OF H.R. 2464 AND SENATE 1766 BEFORE THE COMMITTEE ON INDIAN AFFAIRS UNITED STATES SENATE
July 18, 1996

My name is Christine Steele. I am the duly elected Chairperson of the Tribal Council of the Confederated Tribes of the Goshute Reservation. I have lived almost my entire life on the Goshute Reservation. I was elected to serve as the Chairperson last December. The Tribal Council has directed me to submit this statement on behalf of the Tribe in support of H.R. 2464 and the identical Senate 1766, amending P.L. 103-93, "the Utah Schools and Lands Improvement Act of 1993 (107 Stat. 995)."

Our Reservation is located in a remote, but beautiful valley on the high dessert south and a little west of the Great Salt Lake. Somewhat over half of the 470 members of my Tribe actually live on the Reservation. Unemployment is a major problem for us, with 70% of those eligible to work residing on the Reservation being unemployed. Those who do have jobs work for the Tribal government or are generally involved in ranching.

The Tribe strongly supports these bills because they will help to clear-up a longstanding problem with our southern boundary. The corrections contained in this new legislation will improve our ability to manage our lands and to prevent problems of trespass both in and out of the Reservation by livestock. Also, we hope to be better able to prevent poaching of game animals within our area. Thanks for your consideration of these bills. We appreciate your help.

Hon. Christine Steele
Goshute Tribe, Ibapah, Utah 84034

The Utah Wilderness Coalition

The Foundation for the
Utah Wilderness Coalition
PO Box 520974
Salt Lake City, UT 84152-0974

Telephone: 801•486•3161
Fax: 801•486•4233

MEMBER ORGANIZATIONS

American Hiking Society
American Rivers
American Wildlands
Arizona Whitewater Association
Arizona Wilderness Coalition
Association for the Tree of Life
Colorado Environmental Coalition
Colorado Outward Bound School
Defenders of Wildlife
Desert Protective Council
Earth Island Institute
Forest Trust
Four Corners' Wilderness Workshop
Friends of the Dixie National Forest
Friends of the Earth
Friends of the River-Colorado Plateau
Grand Canyon Trust
Idaho Conservation League
National Outdoor Leadership School
National Parks and Conservation Association
Natural Arch and Bridge Society
Nevada Outdoor Recreation Association
New Mexico Wilderness Coalition
Oregon Natural Desert Association
Project Lighthawk
Slickrock Country Council
Southern Utah Wilderness Alliance
S'PLORE (Special Populations Learning Outdoor Recreation and Education)
Uintah Mountain Club
Utah Chapter Sierra Club
Utah Mountain Bike Association
Wasatch Mountain Club
The Wilderness Society

FOUNDED IN 1985

An IRS 501(c)(3) organization
Printed on Recycled Paper

John P. Kennedy
General Counsel,
Goshute Tribe
1385 Yale Avenue
Salt Lake City, UT 84105

October 27, 1994

Dear Mr. Kennedy:

The Utah Wilderness Coalition (UWC) has been holding discussions with representatives of the Goshute Business Council concerning the management of lands adjacent to the southern boundary of their reservation in western Utah. The Coalition understands that the tribe is concerned about the occurrence of trespass from adjacent Utah state lands. It is further understood that the tribe seeks to resolve the uncertainty associated with the southern boundary of its reservation and improve its ability to control and protect tribal lands. The state lands in question are located in Range 19W, Township 12S, including all or part of Sections 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, 36 and Section 2 of Township 13S.

The Utah Wilderness Coalition has proposed federal wilderness designation for 90,200 acres of federal lands in the Deep Creek Range bordering the Goshute Reservation. The UWC proposal for the Deep Creeks also includes some of the state lands which the Goshute Tribe seeks to acquire. The Goshute Business Council has expressed its support for the UWC wilderness proposal for the Deep Creek Range. Furthermore, the Goshute Business Council has resolved "to maintain, manage, and preserve" the wilderness character of the Utah state lands it seeks to acquire adjacent to the southern border of its reservation (Confederated Tribes of the Goshute Reservation, Resolution No. 93-G-16, June 9, 1993).

The Utah Wilderness Coalition appreciates the Goshute Business Council's recognition of the value of wilderness preservation for the lands and resources of the Deep Creek Range. Having considered the purpose and intent of the Goshute Tribe in acquiring the state lands in question, the Board of Directors of the Utah Wilderness Coalition has voted to support the tribe's efforts to do so.

Any questions about the Coalition's position in this matter should be directed to Lawson LeGate, Southwest Regional Representative, Sierra Club at 801/467-9294.

Sincerely,

Rudy Lukez, Chair
Utah Wilderness Coalition

Juab County

The "Key" County of Utah

July, 18 1994

Juab County Center
146 North Main
Nephi, Utah 84648

Board of Commissioners:
Jay M. "Ike" Lunt, Chairman
Gordon M. Young
Joseph A. Bernini
Tele. (801) 623-1507
Fax (801) 623-4609

Administrator
Randy L. Freston
Tele. (801) 623-1507

Assessor
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Tele. (801) 623-1423

Attorney
Donald J. Eyre Jr.
Tele. (801) 623-1141

Clerk/Auditor
Pat P. Greenwood
Tele. (801) 623-0271

Economic Development
Glenn W. Greenhalgh
Tele. (801) 623-2411

Justice Court Judge
Nephi Precinct
Sharla T. Williams
Tele. (801) 623-0869

Justice Court Judge
Eureka Precinct
Charles H. Blouch
Tele. (801) 433-6346

Recorder
Craig J. Sperry
Tele. (801) 623-1480

Road Department
Sherman O. Peterson
Tele. (801) 623-1593

Sheriff
David H. Carter
Tele. (801) 623-1344

Treasurer
Joyce C. Pay
Tele. (801) 623-0096

John Paul Kennedy
1385 Yale Avenue
Salt Lake City, Utah 84105

Re: Goshute Lands

Dear Mr. Kennedy:

You have sent to the Juab County Attorney a copy of the proposed amendment to the Utah Schools and Land Improvement Act of 1993 (Pub. L. 103-93) along with a map showing the area of lands which would be transferred from the State to the federal government in trust for the Goshute Tribe.

Having reviewed these matters, Juab County has no objection to the proposed amendment.

Very truly yours,

Joseph Bernini
Commission Chairman

CC: Kevin S. Carter, Assistant Director
Division of State Lands and Forestry
State of Utah, Department of Natural Resources
3 Triad Center, Suite 400
355 West North Temple
Salt Lake City, Utah 84180-1204

RESOLUTION
No. 95-02

The Board of Trustees of the School and Institutional Trust Lands Administration hereby adopts a resolution concerning a proposed amendment to the Utah Schools and Land Improvement Act of 1993 (Pub. L. 103-93) as it pertains to the Goshute Indian Tribe.

WHEREAS, on October 1, 1993 the President of the United States of America signed the "Utah Schools and Land Improvement Act of 1993" which provides for the exchange of certain lands within the State of Utah, between the state and the federal government, and for other purposes; and

WHEREAS, said Act provides for the acquisition of approximately nine hundred eighty acres of surface and subsurface estate, and an additional four hundred and eighty acres of subsurface estate held in trust by the State of Utah for the common schools, and, once acquired declares those lands part of the Goshute Indian Reservation in the State of Utah; and

WHEREAS, the Goshute Indian Tribe now desires to similarly acquire and add an additional eight thousand acres of surface and subsurface estate held in trust by the State of Utah to the Goshute Indian Reservation in the State of Utah; and

WHEREAS, to secure these additional lands in trust for the Tribe, the Goshute Indian Tribe proposes an amendment to Pub. L. 103-93 for the consideration of the Congress of the United States of America.

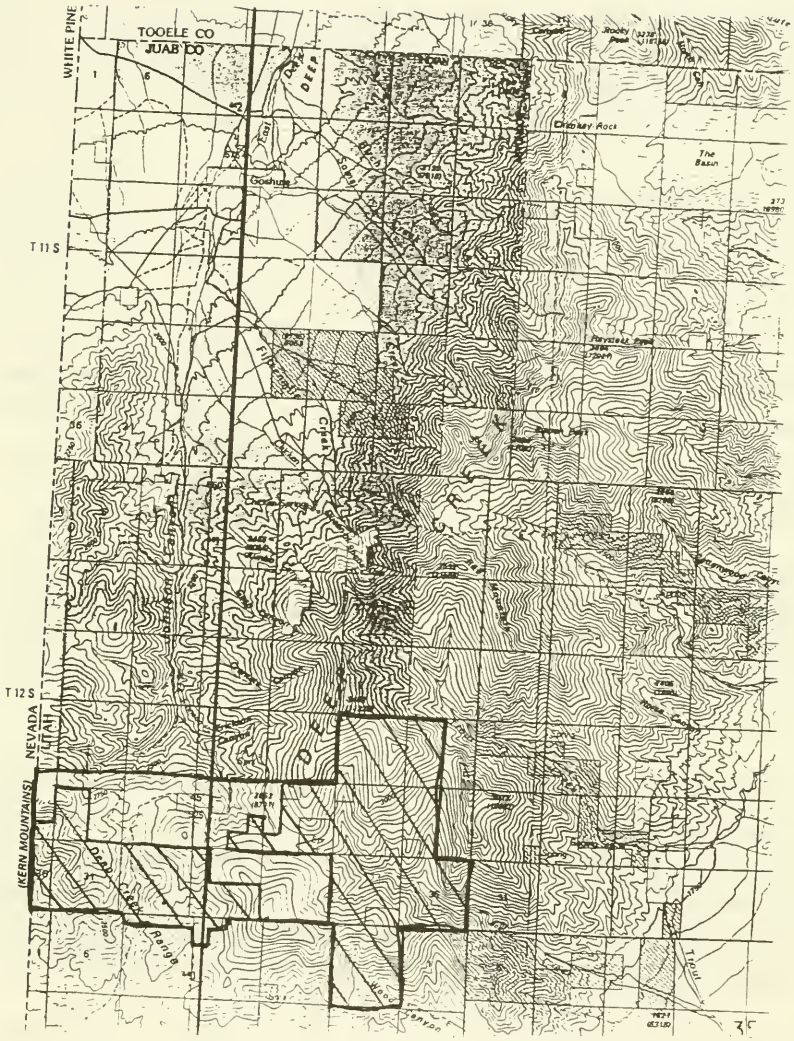
THEREFORE, BE IT RESOLVED, that the Board of Trustees of the School and Institutional Trust Lands Administration, exercising its statutory role, supports the proposed amendment to the "Utah Schools and Land Improvement Act of 1993" (Pub. L. 103-93) to provide for the exchange of certain trust lands adjacent to the Goshute Indian Reservation, as more specifically depicted on the map entitled "Additional Utah-Goshute Exchange," dated July 1, 1994, subject to the following conditions:

1. The costs of the necessary appraisal of the trust lands to be exchanged shall be borne by the Goshute Indian Tribe and/or the federal government.

2. That the amendment presented to Congress shall be in essentially the same form as put before this Board and will not be further amended to include any substantive changes to the process and procedures contained in Pub. L. 103-93.

Adopted this 26th day of September, 1995.

Ruland J. Gill, Jr.
Chair, Board of Trustees
School and Institutional Trust Lands
Administration


WHITE PINE
TOOELE CO
JUAB CO
T 11 S
T 12 S
NEVADA
UTAH
(KERN MOUNTAINS)
Goshute
Chimney Rock
The Basin
Rocky Peak
Haystack Peak
Fifteenmile
Creek
Deep Creek Range
Wood Canyon
Trout

TESTIMONY OF TOM LEVY

GENERAL MANAGER-CHIEF ENGINEER
COACHELLA VALLEY WATER DISTRICT

BEFORE THE SENATE COMMITTEE ON INDIAN AFFAIRS

JULY 18, 1996

Mr. Chairman, I would like to thank you and the other members of the Committee for the opportunity to testify in support of the Torres-Martinez settlement legislation. We would also like to express our appreciation to both Senators Feinstein and Boxer for their sponsorship of this legislation in the Senate.

Enactment of this legislation will facilitate and implement a settlement agreement reached by the U.S Government, the Tribe, Imperial Irrigation District and the Coachella Valley Water District. It is a rare occasion in which the parties involved in such complex litigation are able to appear before Congress joined together on a final resolution that is so important to our region in the state of California.

I am the General Manager-Chief Engineer of the Coachella Valley Water District. We were formed in 1918, and the district serves over 637,000 acres mainly in Riverside County and some small sections of land in Imperial and San Diego Counties. Our fields of service include: importation and distribution of domestic water; wastewater collection, reclamation and redistribution; regional flood protection; importation and distribution of irrigation water; irrigation drainage collection, groundwater management and water conservation.

Agriculture is a mainstay of the area we serve. The value of last year's crop production was $370 million. That could happen only because the Salton Sea serves as an agricultural drain reservoir for our district's 65,000 irrigated acres, and for hundreds of thousands of additional acres in Imperial County as well as Mexico's Mexicali Valley representing hundreds of millions more in crop values.

Conflicts regarding historical Executive Branch and Congressional actions concerning the Salton Sea led to litigation which was brought in federal court by the federal government on behalf of the Tribe against the Imperial Irrigation District and the Coachella Valley Water District. This litigation culminated in a judgment in the Federal District Court for the Southern District of California on August 20, 1992. The decision has been appealed by all parties involved to the Ninth Circuit pending the outcome of the settlement negotiations. Furthermore, the Tribe has brought its own lawsuit which is also pending.

The judgment from the August, 1992 decision required Coachella Valley Water District to pay $212,908 and Imperial Irrigation District to pay $2,795,694 in past and future damages in lieu of the U.S. Government's request for a permanent injunction against continued flooding of submerged lands. As part of the settlement, the Districts agreed to contribute an additional $1 million beyond the judgment amount. The districts will receive permanent flowage easements over all Indian trust lands (approximately 11,000 acres) and all Federal lands (approximately 110,000 acres) located within and below the minus 220-foot contour of the Salton Sink.

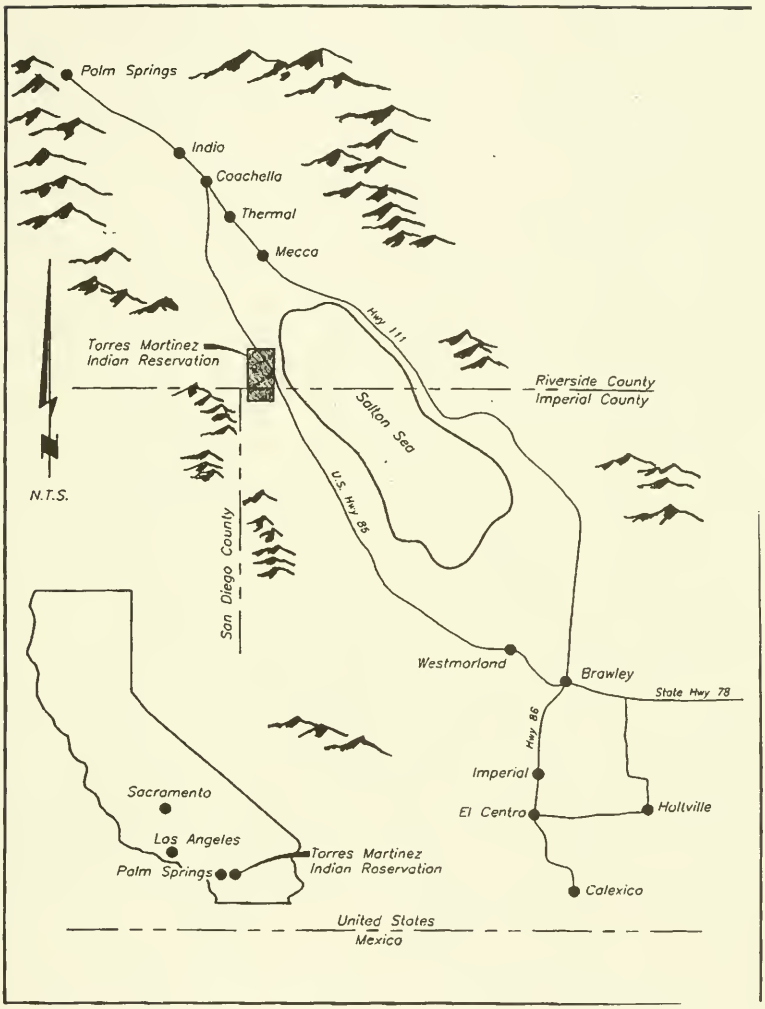
Pursuant to the legislation, local water rights will be protected. New lands acquired by the Tribe under the settlement will be subject to all valid water rights existing at the time of acquisition and be subject to the paramount rights of any person who recharges or stores water in a groundwater basin. Moreover, pursuant to the settlement agreement, under certain circumstances the Tribe has agreed to be subject to groundwater replenishment assessments by the Coachella Valley Water District and to use canal water so that the groundwater basin is not overburdened by new development.

The Torres-Martinez settlement legislation is the product of a consensus process that has been

conducted over the past four years through the Departments of the Interior and Justice. I would like to thank Secretary Babbitt's office, the Solicitor's office at Interior, the Justice Department attorneys, and Rep. Bono's office for assisting the districts and the Tribe in reaching a final settlement.
I would also like to express our gratitude to the settlement coordinator in the Ninth Circuit and to the judges of the Federal District Court for the Southern District of California for their patience and assistance throughout the settlement process.

The two water districts and the Tribe have worked cooperatively with Interior and Justice to develop a settlement that is fair and reasonable for all parties. Swift enactment of this authorizing legislation along with federal funding will resolve conflicting claims in a way that benefits all of the communities in the Coachella Valley.

In closing, I again want to express my appreciation for the opportunity to appear at this hearing. I would be pleased to respond to any questions you may have.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